

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE EUGENE SANDERS,

Plaintiff,

Case No. 23-cv-13079

Honorable Linda V. Parker

v.

OAKLAND COUNTY SHERIFF'S
OFFICE, MICHAEL J. BOUCHARD,
Z. GOTOWICKI, and H. PENDER

Defendants.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION AND DISMISSING COMPLAINT PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 41(b)**

Plaintiff commenced this lawsuit against Defendants on December 5, 2023. (ECF No. 1.) On February 28, 2024, Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 13.) The matter has been assigned to Magistrate Judge Curtis Ivy Jr. for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 12.)

On May 18, 2024, Plaintiff requested a 90-day stay of the proceedings to accommodate a hand injury. (ECF No. 15.) Magistrate Judge Ivy granted in part and denied in part Plaintiff's request, staying the proceedings but for only 60 days.

(ECF No. 16.) Magistrate Judge Ivy informed Plaintiff that his response to Defendants' motion therefore would be due on or before June 11, 2024. (*Id.* at PageID. 78.)

Plaintiff failed to file his response brief by the deadline or otherwise contact the Court. Therefore, Magistrate Judge Ivy issued an order requiring Plaintiff to show cause why Defendants' motion to dismiss should not be granted or the action should not be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (ECF No. 17.) In the show cause order, Magistrate Judge Ivy warned Plaintiff that “[f]ailure to timely or adequately respond . . . will result in [a recommendation that the motion to dismiss be granted or the case dismissed for failure to prosecute].” (*Id.* at PageID. 80.) The deadline for Plaintiff to respond was July 8, 2024. (*Id.*)

Plaintiff failed to respond by that date or otherwise contact the Court. Therefore, on July 22, 2024, Magistrate Judge Ivy issued a report a recommendation (R&R) recommending that this Court dismiss Plaintiff's Complaint with prejudice pursuant to Rule 41(b). (ECF No. 18.) At the conclusion of the R&R, Magistrate Judge Ivy advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at PageID. 86.) He further specifically advises the parties that “[f]ailure to file

specific objections constitutes a waiver of any further right to appeal.” (*Id.*)

Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Ivy. Notably, all filings in this matter have been served upon Plaintiff at the Oakland County Jail. A review of the CLEMIS Inmate Locator reflects that Plaintiff remains at the jail. See <https://apps.clemis.org/>. The Court therefore adopts the R&R.

Accordingly,

IT IS ORDERED that Plaintiff’s Complaint is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b).

s/ Linda V. Parker

LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: August 12, 2024

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, August 12, 2024, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager